

S.495

Darfur Accountability Act of 2005 (Introduced in Senate)

S 495 IS

109th CONGRESS

1st Session

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To impose sanctions against perpetrators of crimes against humanity in Darfur, Sudan, and for other purposes.

IN THE SENATE OF THE UNITED STATES

March 2, 2005

Mr. CORZINE (for himself, Mr. BROWNBACK, Mr. DODD, Mr. DURBIN, Mr. FEINGOLD, Mr. LIEBERMAN, Mr. TALENT, Mr. DEWINE, and Mr. COBURN) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To impose sanctions against perpetrators of crimes against humanity in Darfur, Sudan, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Darfur Accountability Act of 2005'.

SEC. 2. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES- The term `appropriate congressional committees' means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(2) GOVERNMENT OF SUDAN- The term `Government of Sudan' means the National Congress Party-led government in Khartoum, Sudan, or any successor government formed on or after the date of the enactment of this Act.

(3) MEMBER STATES- The term 'member states' means the member states of the United Nations.

(4) SUDAN NORTH-SOUTH PEACE AGREEMENT- The term 'Sudan North-South Peace Agreement' means the comprehensive peace agreement signed by the Government of Sudan and the Sudan People's Liberation Army/Movement on January 9, 2005.

(5) THOSE NAMED BY THE UN COMMISSION- The term 'those named by the UN Commission' means those individuals whose names appear in the sealed file delivered to the Secretary General of the United Nations by the International Commission of Inquiry on Darfur to the United Nations Secretary General.

(6) UN COMMISSION- The term 'UN Commission' means the International Commission of Inquiry on Darfur to the United Nations Secretary General.

SEC. 3. FINDINGS.

Congress makes the following findings:

(1) On July 22, 2004, the House of Representatives and the Senate declared that the atrocities occurring in Darfur, Sudan are genocide.

(2) On September 9, 2004, Secretary of State Colin L. Powell stated before the Committee on Foreign Relations of the Senate, '[w]hen we reviewed the evidence compiled by our team, along with other information available to the State Department, we concluded that genocide has been committed in Darfur and that the Government of Sudan and the [Janjaweed] bear responsibility--and genocide may still be occurring'.

(3) President George W. Bush, in an address before the United Nations General Assembly on September 21, 2004, stated, '[a]t this hour, the world is witnessing terrible suffering and horrible crimes in the Darfur region of Sudan, crimes my government has concluded are genocide'.

(4) On July 30, 2004, the United Nations Security Council passed Security Council Resolution 1556, calling upon the Government of Sudan to disarm the Janjaweed militias and to apprehend and bring to justice Janjaweed leaders and their associates who have incited and carried out violations of human rights and international humanitarian law and carried out other atrocities in the Darfur region.

(5) On September 18, 2004, the United Nations Security Council passed Security Council Resolution 1564, determining that the Government of Sudan had failed to meet its obligations under Security Council Resolution 1556, calling for a military flight ban in and over the Darfur region, demanding the names of Janjaweed militiamen disarmed and arrested for verification, establishing an International Commission of Inquiry into violations of international humanitarian and human rights laws, and threatening sanctions should the Government of Sudan fail to fully comply with Security Council Resolutions 1556 and 1564.

(6) United Nations Security Council Resolution 1564 declares that if the Government of Sudan 'fails to comply fully' with Security Council Resolutions 1556 and 1564, the Security

Council shall consider taking 'additional measures' against the Government of Sudan 'as contemplated in Article 41 of the Charter of the United Nations, such as actions to affect Sudan's petroleum sector or individual members of the Government of Sudan, in order to take effective action to obtain such full compliance and cooperation'.

(7) United Nations Security Council Resolution 1564 also 'welcomes and supports the intention of the African Union to enhance and augment its monitoring mission in Darfur' and 'urges member states to support the African Union in these efforts, including by providing all equipment, logistical, financial, material, and other resources necessary to support the rapid expansion of the African Union Mission'.

(8) On February 1, 2005, the United Nations released the Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General, dated January 25, 2005, which stated that, '[g]overnment forces and militias conducted indiscriminate attacks, including killing of civilians, torture, enforced disappearances, destruction of villages, rape and other forms of sexual violence, pillaging and forced displacement throughout Darfur', that such 'acts were conducted on a widespread and systematic basis, and therefore may amount to crimes against humanity', and that the 'magnitude and large-scale nature of some crimes against humanity as well as their consistency over a long period of time, necessarily imply that these crimes result from a central planning operation'.

(9) The Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General notes that, pursuant to its mandate and in the course of its work, the UN Commission collected information relating to individual perpetrators of acts constituting 'violations of international human rights law and international humanitarian law, including crimes against humanity and war crimes' and that the UN Commission has delivered to the Secretary-General of the United Nations a sealed file of those named by the UN Commission with the recommendation that the 'file be handed over to a competent Prosecutor'.

SEC. 4. SENSE OF CONGRESS.

It is the sense of Congress that--

(1) the atrocities unfolding in Darfur, Sudan, have been and continue to be genocide;

(2) the United States should immediately seek passage at the United Nations Security Council of a resolution that--

(A) requires member states to freeze the property and assets of, deny visas to, and deny entry to--

(i) those named by the UN Commission;

(ii) family members of those named by the UN Commission; and

(iii) any associates of those named by the UN Commission to whom assets or property of those named by the UN Commission were transferred on or after June 11, 2004;

(B) urges member states to submit to the Security Council the name of any individual that the government of any such member state believes is or has been planning, carrying out, responsible for, or otherwise involved in genocide, war crimes, or crimes against humanity in Darfur, along with evidence supporting such belief so that the Security Council may consider imposing sanctions described in subparagraph (A) against those individuals described in such subparagraph;

(C) imposes sanctions or additional measures against the Government of Sudan, including sanctions that will affect the petroleum sector in Sudan, individual members of the Government of Sudan, and entities controlled or owned by officials of the government of Sudan or the National Congress Party in Sudan, that will remain in effect until such time as--

(i) humanitarian organizations are granted full, unimpeded access to Darfur;

(ii) the Government of Sudan cooperates with humanitarian relief efforts, carries out activities to demobilize and disarm Janjaweed militias and any other militias supported or created by the Government of Sudan, and cooperates fully with efforts to bring to justice the individuals responsible for genocide, war crimes, or crimes against humanity in Darfur;

(iii) the Government of Sudan cooperates fully with the African Union, the United Nations, and all other observer, monitoring, and protection missions mandated to operate in Sudan;

(iv) the Government of Sudan permits the safe and voluntary return of displaced persons and refugees to their homes and rebuilds the communities destroyed in the violence in Darfur; and

(v) the Sudan North-South Peace Agreement is fully implemented and a new coalition government is created under such Agreement;

(D) establishes a military no-fly zone in Darfur;

(E) supports the expansion of the African Union force in Darfur so that such force achieves the size and strength needed to prevent ongoing fighting and violence in Darfur;

(F) urges member states to accelerate assistance to the African Union force in Darfur;

(G) calls on the Government of Sudan to cooperate with, and allow unrestricted movement in Darfur by, the African Union force in the region, international humanitarian organizations, and United Nations monitors;

(H) extends the embargo of military equipment established by paragraphs 7 through 9 of Security Council Resolution 1556 to include the prohibition of sale or supply to the Government of Sudan; and

(I) supports African Union efforts to negotiate peace talks between the Government of Sudan and rebels in Darfur, calls on the Government of Sudan and rebels in Darfur

to abide by their obligations under the N'Djamena Ceasefire Agreement of April 8, 2004 and subsequent agreements, and urges parties to engage in peace talks without preconditions and seek to resolve the conflict;

(3) the United States should work with other nations to ensure effective efforts to freeze the property and assets of and deny visas and entry to--

(A) those named by the UN Commission;

(B) any individuals the United States believes is or has been planning, carrying out, responsible for, or otherwise involved in genocide, war crimes, and crimes against humanity in Darfur;

(C) family members of any person described in subparagraphs (A) or (B); and

(D) any associates of any such person to whom assets or property of such person were transferred on or after June 11, 2004;

(4) the United States should support accountability through action by the United Nations Security Council, pursuant to Chapter VII of the Charter of the United Nations, to ensure the prompt prosecution and adjudication in a competent international court of justice of those named by the UN Commission;

(5) the United States should not provide assistance to the Government of Sudan, other than assistance necessary for the implementation of the Sudan North-South Peace Agreement, the support of the southern regional government in Sudan, or for humanitarian purposes in Sudan, unless the President certifies and reports to Congress that--

(A) humanitarian organizations are being granted full, unimpeded access to Darfur and the Government of Sudan is providing full cooperation with humanitarian efforts;

(B) concrete, sustained steps are being taken toward demobilizing and disarming Janjaweed militias and any other militias supported or created by the Government of Sudan;

(C) the Government of Sudan is cooperating fully with efforts to bring to justice those responsible for genocide, war crimes, or crimes against humanity in Darfur;

(D) the Government of Sudan cooperates fully with the African Union, the United Nations, and all other observer, monitoring, and protection missions mandated to operate in Sudan;

(E) the Government of Sudan permits the safe and voluntary return of displaced persons and refugees to their homes and rebuilds the communities destroyed in the violence in Darfur; and

(F) the Sudan North-South Peace Agreement is fully implemented and a new coalition government is created under such Agreement;

(6) the President should work with the African Union and other international organizations

and nations to establish mechanisms for the enforcement of a no-fly zone in Darfur;

(7) the African Union should extend its mandate in Darfur to include the protection of civilians and proactive efforts to prevent violence, and member states should support fully this extension;

(8) the President should accelerate assistance to the African Union force in Darfur and discussions with the African Union and the European Union and other supporters of the African Union force on the needs of such force, including assistance for housing, transportation, communications, equipment, technical assistance such as training and command and control assistance, and intelligence;

(9) the President should appoint a Presidential Envoy for Sudan--

(A) to support the implementation of the Sudan North-South Peace Agreement;

(B) to seek ways to bring stability and peace to Darfur;

(C) to address instability elsewhere in Sudan; and

(D) to seek a comprehensive peace throughout Sudan;

(10) United States officials, including the President, the Secretary of State, and the Secretary of Defense, should raise the issue of Darfur in bilateral meetings with officials from other members of the United Nations Security Council and relevant countries, with the aim of passing a United Nations Security Council resolution described in paragraph (2) and mobilizing maximum support for political, financial, and military efforts to stop the genocide in Darfur;

(11) the Secretary of State should immediately engage in a concerted, sustained campaign with other members of the United Nations Security Council and relevant countries with the aim of achieving the goals described in paragraph (10);

(12) the United States fully supports the Sudan North-South Peace Agreement and urges the rapid implementation of its terms; and

(13) the United States condemns attacks on humanitarian workers and calls on all forces in Darfur, including forces of the Government of Sudan, all militia, and forces of the Sudan People's Liberation Army/Movement and the Justice and Equality Movement, to refrain from such attacks.

SEC. 5. IMPOSITION OF SANCTIONS.

(a) Freezing Assets- At such time as the United States has access to the names of those named by the UN Commission, the President shall take such action as may be necessary to immediately freeze the funds and other assets belonging to anyone so named, their family members, and any associates of those so named to whom assets or property of those so named were transferred on or after June 11, 2004, including requiring that any United States financial institution holding such funds and assets promptly report those funds and assets to the Office of Foreign Assets Control.

(b) Visa Ban- Beginning at such times as the United States has access to the names of those named by the UN Commission, the President shall deny visas and entry to--

(1) those named by the UN Commission;

(2) the family members of those named by the UN Commission; and

(3) anyone the President determines has been, is, or may be planning, carrying out, responsible for, or otherwise involved in crimes against humanity, war crimes, or genocide in Darfur, Sudan.

(c) Asset Reporting Requirement- Not later than 14 days after a decision to freeze the property or assets of, or deny a visa or entry to, any person under this section, the President shall report the name of such person to the appropriate congressional committees.

(d) Notification of Waivers of Sanctions- Not later than 30 days before waiving the provisions of any sanctions currently in force with regard to Sudan, the President shall submit to the appropriate congressional committees a report describing the waiver and the reasons therefor.

SEC. 6. REPORTS TO CONGRESS.

(a) Reports on Stabilization in Sudan-

(1) INITIAL REPORT- Not later than 30 days after the date of enactment of this Act, the Secretary of State, in conjunction with the Secretary of Defense, shall report to the appropriate congressional committees on efforts to deploy an African Union force in Darfur, the capacity of such force to stabilize Darfur and protect civilians, the needs of such force to succeed at such mission including housing, transportation, communications, equipment, technical assistance, including training and command and control, and intelligence, current status of United States and other assistance to the African Union force, and additional United States assistance needed.

(2) SUBSEQUENT REPORTS- The Secretary of State, in conjunction with the Secretary of Defense, shall submit not less than every 60 days until such time as the President certifies that the situation in Darfur is stable and that civilians are no longer in danger and that the African Union is no longer needed to prevent a resumption of violence and attacks against civilians.

(b) Report on Those Named by the UN Commission- At such time as the United States has access to the names of those named by the UN Commission, the President shall submit to the appropriate congressional committees a report listing such names.

(c) Reports on Accountability-

(1) IN GENERAL- No later than 30 days after the date of enactment of this Act and every 30 days thereafter, the President shall submit to the appropriate congressional committees a report on the status of efforts in the United Nations Security Council to ensure prompt prosecution and adjudication of those named by the UN Commission in a competent international court of justice.

(2) CONTENT- The reports required under paragraph (1) shall describe--

(A) the status of any relevant resolution introduced in the United Nations Security Council;

(B) the policy of the United States with regard to such resolutions;

(C) the status of all possible venues for prosecution and adjudication of those named by the UN Commission, including whether such venues have the jurisdiction, personnel and assets necessary to promptly prosecute and adjudicate cases involving such persons; and

(D) any ongoing or planned United States or other assistance related to the prosecution and adjudication of cases involving those named by the UN Commission.